

OCA FILE

*Leg/OHC*

22 January 1988  
OCA88-0167

MEMORANDUM FOR THE RECORD

FROM: [redacted] Legislation Division  
Office of Congressional Affairs

SUBJECT: Whistleblower Protection Act of 1987, H.R. 25

1. On 21 January 1988, I met with Andy Feinstein of the Subcommittee on Civil Service of the House Committee on Post Office and Civil Service. We discussed the Whistleblower Protection Act of 1987 and the proposed amendment to 5 U.S.C. 2302, which would allow the Merit Systems Protection Board (MSPB) to review prohibited personnel practices based on the denial or revocation of a security clearance.

2. I explained that we understood the amendment not to require MSPB review of Agency determinations and wanted to clarify this in the bill and the legislative history. I left him copies of our proposed "fix" to the statute and proposed report language (attached).

3. Feinstein explained that he has no problem with the language we proposed. However, action on the bill is at a standstill and none is currently expected. The bill may move should the Senate commence action on its bill, however.

Attachments

OCA/Leg [redacted] :slm (22 January 1988)

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WHISTLEBLOWER PROTECTION ACT OF 1987  
H.R. 25

At the end of section 2302 of title 5, United States Code,  
insert the following new subsection:

(e) A prohibited personnel practice relating to a personnel action which is based on the denial or revocation of a security clearance, or of access to classified information or to a secured installation, is subject to challenge before the Merit Systems Protection Board to the same extent and in the same manner as any other prohibited personnel practice[, ] except that the Merit Systems Protection Board shall not have the authority or jurisdiction to review the decision, or the reasons for the decision, to deny or revoke the security clearance, the access to classified information or the access to a secured facility, upon which the challenged personnel action is based.

REPORT LANGUAGE  
WHISTLEBLOWER PROTECTION ACT OF 1987  
H.R. 25

Nothing in this chapter shall impair or affect the responsibility of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure. For this reason, the intelligence community was exempted from the requirements of this chapter when the act became law in 1978. Moreover, the Director of Central Intelligence has the statutory authority to terminate officers and employees when, in his discretion, termination is necessary or advisable to the interests of the United States. It is not the intent of this amendment to interfere with the exercise of this authority.